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APR 29 2005

In re Application of :  
Gerday, et al. :  
Application No. 10/803,055 :  
Filed: March 18, 2004 :  
Attorney Docket No. 31601-201282 :

DECISION GRANTING PETITION  
**OFFICE OF PETITIONS**

This is a decision on the petition filed April 26, 2005, to accord the above-identified application a filing date of March 18, 2004.

On March 18, 2004, the application was deposited.

On March 16, 2005, the Office of Initial Patent Examination mailed a Notice indicating that drawings were not present and that a filing date had not been accorded the application because the drawings were believed to be necessary in order to understand the invention claimed. The Notice allowed a period for reply of two-months from its mailing date..

The instant petition was filed responsively on April 26, 2005.

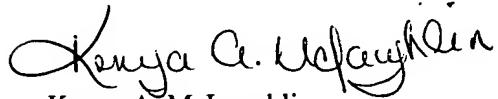
It has determined, however, that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).<sup>1</sup> A review of the record reveals that claim 2 is a method claim. Therefore, the present application is deemed to be an application that does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date. The figure filed with the instant petition will not be included as part of the original application papers filed on March 18, 2004. A preliminary amendment requesting entry of the drawings should be filed prior to the first action on the merits.

In view of the above, the petition is granted. The petition fee of \$400.00 will be refunded to deposit account 22-0261.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 18, 2004, using only those application papers filed on March 18, 2004. The Office of Initial Patent Examination is directed to issue a corrected filing receipt.

<sup>1</sup>MPEP 601.01(f).

Any inquiries related to this decision should be directed to the undersigned at (571)272-3222.



Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions